

15 JUN 1989

In Reply,  
Refer to W-6-2

M. G. Mefferd  
State Oil and Gas Supervisor  
California Division of Oil and Gas  
1416 9th Street, Room 1310  
Sacramento, California 95814

Dear Mr. Mefferd:

In the past, we have discussed the possibility of the California Division of Oil and Gas (CDOG) assuming regulatory authority over certain types of Class V wells such as geothermal wells. We have researched this matter and I would like to share with you some of our findings and a possible suggestion.

In states with primary enforcement responsibility under both Safe Drinking Water Act Sections 1422 and 1425, usually the 1425 program regulates the geothermal wells. The federal regulations 40 CFR 145.32 (c) allow for a primacy state to transfer parts of a program from one agency to another. This is permissible because the final enforcement authority resides at the state level for both programs. Unfortunately, this is not the case in the State of California. Because the EPA implements the 1422 program, subdelegation of classes of wells is not possible due to the different enforcement authorities involved.

There is a possibility that the new regulations being developed for Class V wells may allow for 1425 programs to assume regulatory authority over geothermal wells. I am optimistic that this shift of program responsibility will occur in the Class V regulation development but I am not optimistic about the time frame for implementation of the new rule. The development of final Class V regulations has only just begun.

In the meantime, I would like to discuss with you the possibility of developing a Memorandum of Agreement (MOA) with CDOG regarding the interim regulation of these geothermal wells. We could arrange it so that responsibilities relating to permitting, inspections, etc., would be under CDOG authority and only final

enforcement authority would reside with the EPA. If you feel that this is a workable approach to this situation, we could jointly begin to develop such an agreement. I believe there are enough advantages for both CDOG and EPA to administratively work out some form of an MOA. As such, we would like to meet with you on this to discuss it further. Let us know when a meeting on this would be convenient.

Sincerely,

Steve Pardieck, Chief  
Drinking Water Branch

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